

BEFORE THE FEDERAL ELECTION COMMISSION

2009 DEC 17 AM 9: 32

in the Matter of
CELA

MUR 6155
HILLARY CLINTON FOR PRESIDENT,
AND SHELLY MOSKWA, AS TREASURER

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6155 as a low-rated matter.

The complainant in this matter, Michael Reznik, asserts he did not receive a refund of his \$2,300 general election contribution to the Hillary Clinton for President Committee ("the Committee"). Specifically, the complainant claims that the Committee and Shelly Moskwa, in her official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as amended ("the Act"), when then-Senator Clinton did not receive the Democratic nomination for president and, thereafter, failed to refund his general election contribution pursuant to 11 C.F.R. 102.9(e)(3).¹ The complainant states that "Mrs. Clinton [sic] campaign mailed the refund of the general [election] contribution on August 28, 2008," presumably based on the complainant's review of the Committee's financial disclosure reports. After a few weeks, according to the complainant, he telephoned the Clinton campaign and spoke to "John" and

¹ 11 C.F.R. 102.9(d) states "If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors...." (with certain exceptions not relevant here).

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1 "Monica." informing them that he had not received his refund check. When they responded
2 that the refund check had been mailed and cashed, the complainant advised them that the
3 check was mailed to the wrong address and had not been deposited to his bank account. The
4 complainant maintains that he was promised the incident would be investigated and that a
5 new check would be delivered to what he characterizes as "the correct address." He asserts,
6 however, that during the sixty days subsequent to his telephone call, he received no further
7 response from the Clinton campaign, despite making numerous telephone calls and sending
8 emails.

9 The Committee responds that, after receiving the complaint, it reviewed its bank
10 records and confirmed that a refund check was cashed after it was mailed to the
11 complainant's "address of record" on August 28, 2008, which the Committee believes is the
12 address of the complainant's former employer. In addition to disclosing complainant's
13 refund on its financial disclosure report, the Committee also attached a copy of the endorsed
14 check to its response. After receiving the complaint, the Committee reports that it conducted
15 an internal review of records pertaining to contributions from other individuals associated
16 with the same address, and determined that four additional contributions to the then-
17 Senator's general election campaign were also refunded on August 28, 2008. As a result of
18 its internal review, the Committee concludes that it is possible, "although not definitive," that
19 three of the four contributions may have been endorsed and deposited by an individual other
20 than the contributor.

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2 In light of our recommendation to dismiss this matter, we are not making a recommendation concerning whether the initial refund attempt was timely under the Federal Election Campaign Act of 1971, as amended.

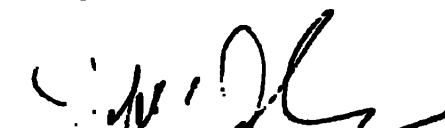
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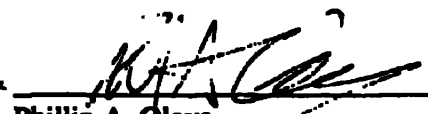
12/16/09
Date

Thomasenia P. Duncan
General Counsel

BY:


Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration


Phillip A. Olaya
Attorney



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